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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,737	08/04/2003	Timothy R. Lang	904.002	5593
<div>7590 LISA A. BRZYCKI Gehrke & Associates, S.C. 123 North 86th Street Wauwatosa, WI 53226</div>			<div>EXAMINER GOODWIN, JEANNE M</div>	
			<div>ART UNIT 2833</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/633,737

Applicant(s)

LANG, TIMOTHY R.

Examiner

Jeanne-Marguerite Goodwin

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-18 is/are allowed.
- 6) ☒ Claim(s) 1-8, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/4/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the , wherein the use of *color alone* depicts the passage of time in both hours and minutes as stated in claims 1 and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

Art Unit: 2841

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 19 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this case, wherein the use of *color alone* depicts the passage of time in both hours and minutes.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 19 and 20 rejected under 35 U.S.C. 102(a) as being anticipated by GB 0224874.8 to Lassalle.

As per claim 1: Lassalle discloses a timepiece in Figs. 1-9D illustrating a display face including a first color on the face corresponding to a current predetermined measurement of time and a second color on the face corresponding to a consecutive predetermined measurement of time, wherein the second color fills the face clockwise as an interval of time elapses, wherein the use of color alone depicts the passage of time in both hours and minutes.

As per claim 2: Furthermore, Lassalle illustrates the first color being a current hour (Figs. 1-9D)), the second color is a consecutive hour and the interval of time corresponds to minutes (Figs. 1-9D).

As per claim 3: Furthermore, Lassalle illustrates a line being created by the intersection of the first color with the second color on the display face, wherein the position of the line along the display face indicates the number of minutes that have passed in the current hour, and wherein the line is not displayed on the face when 60 minutes have elapsed and the face is filled entirely with the second color.

As per claim 4: Furthermore, the display face of Lassalle appears to be circular in shape.

As per claims 19 and 20: the method steps will be met during the normal operation of the apparatus stated above with regards to claims 1-3.

6. Claims 1-4 and 8 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,748,568 to Harrison [hereinafter Harrison '568].

As per claim 1: Harrison discloses a timepiece in Figs. 5a-5d illustrating a display face including a first color on the face corresponding to a current predetermined measurement of time and a second color on the face corresponding to a consecutive predetermined measurement of time, wherein the second color fills the face clockwise as an interval of time elapses.

As per claim 2: Furthermore, Harrison illustrates the first color being a current hour (Fig. 5a, hour 12), the second color is a consecutive hour and the interval of time corresponds to minutes (Fig. 5a, 7 minutes).

As per claim 3: Furthermore, Harrison illustrates a line being created by the intersection of the first color with the second color on the display face, wherein the

Art Unit: 2841

position of the line along the display face indicates the number of minutes that have passed in the current hour, and wherein the line is not displayed on the face when 60 minutes have elapsed and the face is filled entirely with the second color.

As per claim 4: Furthermore, the display face of Harrison appears to be circular in shape.

As per claim 8: Furthermore, the timepiece of Harrison is in fact a watch.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 19 and 20 rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,711,101 to Bornovski [hereinafter Bornovski].

As per claim 19: Bornovski discloses a display portion for telling time comprising assigning a different color to a predetermined measurement of time; displaying on a face of a timepiece a first color corresponding to a current predetermined measurement of time and a second color corresponding to a consecutive predetermined measurement of time, wherein each of the colors are displayed in a continuous loop representing the predetermined measurements of time that elapse in the day; and filling the display portion of the timepiece with the second color

Art Unit: 2841

as an interval of time elapses (see Figs. 1 & 8-10). The method steps will be met during the normal operation of the apparatus stated above.

As per claim 20: Bornovski further discloses, wherein the predetermined measurement of time corresponds to each of the hours in a day and the interval of time corresponds to the minutes in an hour (see Figs. 8-10). The method steps will be met during the normal operation of the apparatus stated above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison '568 in view of US Pub. 2003/0193842 to Harrison [hereinafter Harrison '842].

As per claim 5: Harrison discloses a timepiece comprising a color-to-hour matrix in which 24 colors are assigned to 24 hours of the day (see paragraph [0196]). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the single hour color assembly of Harrison '568, with the color-to-hour matrix, as taught by Harrison '842, in order to eliminate the need for an a.m./p.m. indicator, as already suggested by Harrison '842.

Art Unit: 2841

11. Claim 6 finally rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison '568 in view of US Patent 4,206,592 to Maue.

As per claim 6: Maue discloses a timepiece using 12 distinguishable colors (see column 5, lines 5-7) to represent one hour of a 12-hour period. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the single hour color assembly of Harrison '568, with the 12 distinguishable color hour assembly, as taught Maue, in order to be able to indicate time by color, as already suggested by Maue.

12. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison '568.

As per claim 7: Harrison '568 discloses the numerical hour indicia being displayed in the center of the display face. With respect to the numerical hour indicia being displayed along a circumferential edge of the face, changing the location of the numerical hour indicia from the center of the face as shown by Harrison '568 to a location along the circumferential edge of the face, absent any criticality, is also considered an obvious modification of Harrison '568 device, that a person having ordinary skill in the art at the time the invention was made would be able to provide using routine experimentation since the courts have held that there is no invention in shifting the position of a structure to a different position if the operation of the device would not be thereby modified. In re Japikse, 86 USPQ 70 (CCPA 1950).

Allowable Subject Matter

13. Claims 9-18 allowed.

Art Unit: 2841

Response to Arguments

14. Applicant's arguments with respect to claims 1-8, 19 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2243343 to Johnson and US 3616643 to Maue disclose a timepiece for identifying time by color.

16. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (571) 272-2104. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2861.



JMG
Dec. 22, 2006

VIT MISKA
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2800